

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason Harwood,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0883
Parcel No. 312/01042-221-000

On May 15, 2014, the above-captioned appeal came on for telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jason Harwood a property tax consultant with Real Property Tax Advisors, Atlanta, Georgia, represented Warehouse 4360 112th Street, LLC, the property owner and taxpayer. Assistant Polk County Attorney David Hibbard represented the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Warehouse 4360 112th Street LLC is the owner of a commercially classified property located at 4360 112th Street, Urbandale, Iowa. The property is a warehouse built in 1991 with 203,712 square feet of gross building area including 20,910 square feet of finish. Prior to 2012, the subject was renovated to make it suitable for multi-tenant rental, which included the addition of more dock doors. The property also has roughly 156,000 square feet of concrete paving and yard lighting. The site is 14.84 acres.

Harwood protested to the Board of Review regarding the 2013 assessment of \$6,160,000, allocated as \$1,160,000 in land value and \$5,000,000 in improvement value. Harwood claimed the property was assessed for more than the value authorized by law under Iowa Code section

441.37(1)(a)(2), and asserted the correct total value was \$4,481,700. The Board of Review denied the claim.

Harwood then appealed to this Board re-asserting his claim.

Harwood submitted the sales of five properties he considered comparable to the subject. The following chart outlines Harwood's sales.

Address	Year Built	Gross Building Area (GBA)	Date of Sale	Sale Price	Sale Price per Square Foot
1210 Army Post Rd	1985	11,400	Jun-2012	\$240,000	\$21.05
5250 NE 17th St	1961	41,519	Feb-2012	\$605,283	\$14.58
3810 Division St	2004	68,238	Oct-2012	\$1,820,000	\$26.67
309 SW 8th St	1902	107,904	Jan-2011	\$1,940,000	\$17.98
740 SE Dalbey Dr	1993	148,874	Oct-2012	\$3,263,500	\$21.92
Subject Property	1991	203,712	N/A	\$6,160,000	\$30.24

In Harwood's opinion, these sales demonstrate the subject property is over assessed because the sales price per-square-foot of the properties ranges from \$14.58 to \$26.67, with an average of \$20.44 per-square-foot. He testified he did not adjust the sales for differences between them and the subject property. Based on this analysis, he selects \$22 per-square-foot for the subject property and asserts the correct fair market value of the subject property is \$4,481,700 rounded.

Deputy Assessor Bryon Tack testified for the Board of Review. Tack was critical of the sales Harwood offered. In his opinion, they are not physically similar, do not have similar locations, and some were not arm's-length (normal) transactions. Tack was also unable to find a record of the sale of 3810 Division Street; the only information in the record for this property is its reference on Harwood's comparison grid.

Tack notes the property at 1210 Army Post Road is a much smaller property, with metal-sided construction and considerably lower wall heights of 9 to 12 feet, compared to the subject's concrete, tilt-up construction and 30-foot wall heights. It is also located on the south side of Des Moines in an

area inferior to the subject's location in the northwest portion of Polk County. For these reasons, we also find this sale dissimilar to the subject and not a reasonable comparable.

Tack testified that 5250 NE 17th Street sold at a Sheriff's sale, which would make it abnormal for assessment purposes. Because this sale was unadjusted for this potentially distorting factor, we give it no consideration.

Tack further explained the property located at 309 SW 8th Street is located in downtown Des Moines, which is dissimilar from the suburban location of the subject property. Moreover, the sale of this property was a corporate reorganization transaction, which is not a normal sale. The property is also a four-story building purchased for redevelopment into multi-family residential use. Again, we find the physical and locational differences, as well as the circumstances surrounding the sale, render this property dissimilar for market value comparison.

Lastly, Tack notes the property located at 740 SE Dalbey Drive, while the most comparable in size and age to the subject, sold as part of an internal corporate reorganization, which is not a normal sale for assessment purposes. Because it unadjusted for this distorting factor, we give it no consideration.

The Assessor's Office appraised the subject property in 2012, which is not typically a re-assessment year. Tack explained this was done because the property had been a single owner-user and it was 70% vacant. Prior to 2012, the subject was renovated to make it suitable for multi-tenant rental and since then the property has been fully leased. Tack explained prior to the renovation, there was only one dock door, which was suitable to the owner-user at that time. However, the new owner added new dock-height doors, as well as foundation work, to make the property divisible for multi-tenant use. The 2013 assessment remained the same as 2012.

The 2012 assessment considered the income approach; Tack testified that while he did not rely on the sales comparison analysis for the assessment, he found sales in the area that he believes are

more comparable to the subject property. Tack used rental rates of similar properties in the area, actual vacancy rates for the area, and the Assessor's Office completed an in-house capitalization rate study. He also relied on a CBRE Real Estate market survey for additional support of vacancy and capitalization rates. Tack noted the Board of Review requested information from Harwood that would have assisted the Assessor's Office in developing an income analysis, but received no response from Harwood. Without the additional information, the Assessor's Office did not develop additional approaches to value and relied on the mass appraisal completed for the 2012 assessment.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales

price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. However, foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

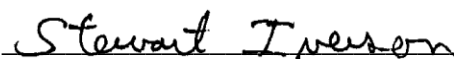
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Harwood did not provide sufficient evidence of the subject property's fair market value as of January 1, 2013. Although he submitted five properties for comparison, we find several of the properties are dissimilar in size, age, and location, and no adjustments were made of these differences. Moreover, several of the properties' sales were abnormal, and thus not reliable for assessment purposes. Harwood, therefore, failed to show the property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 4360 112th Street, Urbandale, Iowa is affirmed.

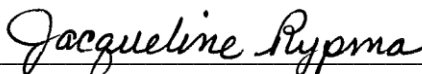
Dated this 29th day of May 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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